

# House Study Bill 664

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY  
CHAIRPERSON SWAIM)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the emancipation of a minor.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
3 TLSB 5797HC 82  
4 jm/rj/14

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1 1 Section 1. NEW SECTION. 232C.1 EMANCIPATION PETITION ==  
1 2 HEARING.  
1 3 1. A minor who desires to become emancipated may file a  
1 4 petition for an order of emancipation in juvenile court if all  
1 5 of the following apply:  
1 6 a. The minor is sixteen years of age or older.  
1 7 b. The minor is a resident of this state.  
1 8 c. The minor is financially self-sufficient.  
1 9 d. The minor has a valid driver's license.  
1 10 e. The minor is not in the care, custody, or control of  
1 11 the state.  
1 12 2. A petition filed pursuant to this section shall contain  
1 13 the following:  
1 14 a. The petitioner's name, mailing address, and date of  
1 15 birth.  
1 16 b. The name, mailing address of the petitioner's parents  
1 17 or legal guardian.  
1 18 c. Specific facts to support the petition including but  
1 19 not limited to the following:  
1 20 (1) The minor has demonstrated financial self-sufficiency,  
1 21 including proof of employment or other means of support, which  
1 22 does not include assistance or subsidies from a federal,  
1 23 state, or local governmental agency.  
1 24 (2) The minor has demonstrated an ability to manage the  
1 25 personal affairs of the minor, including an established  
1 26 residence.  
1 27 (3) The minor has demonstrated an ability and commitment  
1 28 to obtain and maintain education, vocational training, or  
1 29 employment.  
1 30 (4) Any other information considered necessary to support  
1 31 the petition.  
1 32 d. Any one of the following:  
1 33 (1) Documentation that the minor has been living on the  
1 34 minor's own for at three consecutive months.  
1 35 (2) A statement explaining the reasons the minor believes  
2 1 the home of the minor's parents or legal guardian is not  
2 2 healthy or a safe environment.  
2 3 (3) A notarized statement that contains written consent to  
2 4 emancipation by the minor's parents or legal guardian.  
2 5 3. The court shall hold a hearing on the petition within  
2 6 ninety days of the filing of the petition. Notice of the  
2 7 hearing, with a copy of the petition attached, may be sent by  
2 8 certified mail at least sixty days prior to the hearing date;  
2 9 otherwise, notice of the hearing shall be as provided by the  
2 10 rules of civil procedure for service of an original notice.  
2 11 4. The minor's parents or legal guardian may file a  
2 12 written response objecting to the emancipation within thirty  
2 13 days of receiving notice of the hearing.  
2 14 5. The minor may participate in the court proceedings on  
2 15 the minor's own behalf, or may be represented by the minor's  
2 16 own counsel, or the court may appoint a guardian ad litem on  
2 17 behalf of the minor.  
2 18 Sec. 2. NEW SECTION. 232C.2 STAY == MEDIATION.  
2 19 1. Prior to an emancipation hearing held pursuant to

2 20 section 232C.1, the court, on its own motion, may stay the  
2 21 proceedings, and refer the parties to mediation, or request  
2 22 that the department of human services investigate any  
2 23 allegations of child abuse or neglect contained in the  
2 24 petition, and order that a written report be prepared and  
2 25 filed by the department.

2 26 2. If a minor's parent or guardian object to the petition  
2 27 filed pursuant to section 232C.1, the court shall stay the  
2 28 proceedings and refer the parties to mediation unless the  
2 29 court finds that mediation would not be in the best interests  
2 30 of the minor.

2 31 3. If an agreement is reached through mediation, the  
2 32 parties shall file the signed agreement with the court.

2 33 Sec. 3. NEW SECTION. 232C.3 DETERMINATION OF  
2 34 EMANCIPATION == BEST INTERESTS OF THE MINOR.

2 35 1. The court shall determine emancipation based on the  
3 1 best interests of the minor and shall consider all relevant  
3 2 factors including the following:

3 3 a. The potential risks and consequences of emancipation  
3 4 and whether the minor understands the risks and consequences  
3 5 of emancipation.

3 6 b. The ability of the minor to be financially  
3 7 self-sufficient.

3 8 c. The education level of the minor and success achieved  
3 9 in school.

3 10 d. The criminal record of the minor.

3 11 e. The desires of the minor.

3 12 f. The recommendations of the parents or guardian of the  
3 13 minor.

3 14 2. The minor has the burden of proving by clear and  
3 15 convincing evidence that the court shall determine  
3 16 emancipation under this section.

3 17 3. The court shall carefully consider the best interests  
3 18 of the minor and after hearing and consideration of the  
3 19 factors enumerated in this section, the court may order the  
3 20 minor emancipated or deny the petition for emancipation.

3 21 Sec. 4. NEW SECTION. 232C.4 EFFECT OF EMANCIPATION  
3 22 ORDER.

3 23 1. An emancipation order issued pursuant to section 232C.3  
3 24 shall be conclusive evidence the minor is emancipated under  
3 25 the following circumstances:

3 26 a. The power to sue and be sued in the minor's own name.

3 27 b. The obligation to pay child support.

3 28 c. The right to enter into a binding contract.

3 29 d. The right to buy or sell real property.

3 30 e. The right to establish a legal residence.

3 31 f. The right to incur debts.

3 32 g. The right to make medical decisions.

3 33 2. An emancipated minor shall remain subject to alcohol,  
3 34 tobacco, and gambling restrictions as provided by law.

3 35 3. An emancipated minor shall be required to attend school  
4 1 as provided in chapter 299.

4 2 4. An emancipated minor shall be prosecuted in juvenile or  
4 3 district court as provided in section 232.8.

4 4 5. If an emancipation order is entered, the parents or  
4 5 legal guardian are exempt from the following:

4 6 a. Making future child support payments from the date of  
4 7 the emancipation order.

4 8 b. Providing medical support.

4 9 c. Controlling an emancipated minor's income or property.

4 10 d. Tort liability for actions of the minor after  
4 11 emancipation.

#### 4 12 EXPLANATION

4 13 This bill relates to a petition for the emancipation of a  
4 14 minor.

4 15 The bill provides that a minor 16 years of age or older may  
4 16 file a petition for an order of emancipation in juvenile court  
4 17 provided the minor is a resident of the state, financially  
4 18 self-sufficient, and has a valid driver's license, and is not  
4 19 in the care, custody, or control of a state agency.

4 20 The bill requires the petition for emancipation to include  
4 21 facts supporting the financial self-sufficiency of the minor  
4 22 which shall not include assistance or subsidies from a  
4 23 governmental agency, and shall include the ability and  
4 24 commitment of the minor to manage the personal affairs of the  
4 25 minor, the ability and commitment of the minor to obtain  
4 26 educational training or employment, and any other information  
4 27 considered relevant to support the petition.

4 28 Under the bill, the petition shall also include  
4 29 documentation that the minor has an established residence away  
4 30 from the minor's parents or guardian for at least three

4 31 months, a statement explaining the reasons the minor believes  
4 32 the home of the minor's parents or guardian is not a healthy  
4 33 or safe environment, or a notarized statement that contains  
4 34 written consent to emancipation by the minor's parents or  
4 35 guardian.

5 1 The bill provides that the juvenile court shall hold a  
5 2 hearing on the petition within 90 days of the filing of the  
5 3 petition.

5 4 The bill provides that prior to any hearing on  
5 5 emancipation, the juvenile court may stay the proceedings, and  
5 6 refer the minor and the minor's parents to mediation, or  
5 7 request the department of human services to investigate any  
5 8 allegations of the minor and file a report with the court.

5 9 The bill requires the juvenile court to determine  
5 10 emancipation based upon the best interests of the minor.  
5 11 Under the bill, the juvenile court shall consider all relevant  
5 12 factors including the potential risks and consequences of  
5 13 emancipation, the ability of the minor to be self-sufficient,  
5 14 the education level of the minor, the minor's criminal record,  
5 15 and the desires of the minor and the minor's parents or  
5 16 guardian.

5 17 If the court orders emancipation of the child, the effect  
5 18 of the order shall be conclusive evidence that the minor has  
5 19 the power to sue or be sued, pay child support obligations,  
5 20 enter into binding contracts, buy or sell real property,  
5 21 establish a legal residence, incur debts, and make medical  
5 22 decisions.

5 23 An emancipated minor under the bill remains subject to  
5 24 alcohol, gambling, and tobacco restrictions as provided by  
5 25 law. An emancipated minor is also required to attend school  
5 26 as provided in Code chapter 299.

5 27 If the court orders emancipation of the child, the parents  
5 28 or guardian of the child are exempt from making future child  
5 29 support obligations, providing medical support, controlling  
5 30 the income or property of the minor, or being liable for a  
5 31 minor's tortious conduct.

5 32 LSB 5797HC 82

5 33 jm/rj/14